



CITY OF SANTA BARBARA

ORDINANCE COMMITTEE AGENDA REPORT

AGENDA DATE: June 17, 2008

TO: Ordinance Committee

FROM: Recreation Division, Parks and Recreation Department
City Attorney's Office

SUBJECT: Proposed Social Host Ordinance

RECOMMENDATION:

That the Council Ordinance Committee review a proposed draft City "Social Host" Ordinance and make recommendations to the City Council regarding its possible adoption.

DISCUSSION:

On April 8, 2008, the City Council heard a presentation from the Alcohol and Drug Abuse Prevention (ADAP) Teen Coalition on a proposed Social Host Ordinance for the City of Santa Barbara. Council expressed great appreciation to the youth for bringing the proposed ordinance forward and voted unanimously to send the item to Ordinance Committee. Council further directed that youth should continue to be actively involved in the process of drafting the Ordinance, suggesting that a representative from both the ADAP Teen Coalition and the Youth Council join the Ordinance Committee on the dais. Both youth entities have appointed representatives to sit with the Ordinance Committee, and other ADAP youth will be involved in the staff presentation on June 17, 2008.

Background

The ADAP Teen Coalition, supported by a grant from the County of Santa Barbara Alcohol, Drug, and Mental Health Services for the past five years, has worked to reduce underage drinking in the City of Santa Barbara, generally through education and environmental prevention. Their focus has ranged from gathering local drug and alcohol data to youth access to alcohol in the retail environment. Currently, their focus has been on public policy.

As part of this focus, the ADAP Teen Coalition has partnered with several other agencies, including Fighting Back's Public Policy Task Force, Future Leaders of America, Friday Night Live/Club Live, the Santa Barbara Police Department, and the Santa Barbara Youth Council. With their partners, the ADAP Teen Coalition has performed an extensive review, conducted research, and gathered support for a possible

Social Host Ordinance in the City of Santa Barbara. This research has included Peer Focus Groups conducted by ADAP Teen Coalition members at 4 middle and high schools. It was found that over 90% of the students said that 'home' was the number 1 place to get and consume alcohol, and 80% saw a direct connection between underage drinking and youth violence. The research also included gathering data from other cities and counties with existing ordinances, including the County of Ventura, and cities of Carpinteria and Santa Maria.

Underage drinking costs the nation at least \$53 billion a year, mostly because of traffic deaths and violent crimes, according to a 2003 report by the National Research Council's Institute of Medicine. The report, which urged communities to hold hosts accountable for teen drinking, was a catalyst for many recent Social Host Ordinances. Most cities have focused on the civil liability and have been successful.

Other interesting data that the ADAP Teen Coalition collected included the fact that 80% of those teens surveyed, believe that underage drinking is directly connected to youth violence. Given recent events in Santa Barbara, the ADAP Teen Coalition is convinced that a Social Host Ordinance is definitely a positive tool in the reduction of underage drinking as well as youth violence.

Social Host Ordinance

The purchase, possession, or consumption of alcohol by minors in public or commercial settings is already prohibited under state law. A Social Host Ordinance is an ordinance which holds the property owners civilly responsible for underage drinking at parties which occur on private property they own, lease, or otherwise control. Establishing a Social Host Ordinance can fill the gap in the law by providing law enforcement with a tool to help address the problem of underage drinking. It allows law enforcement to pro-actively look at underage drinking at private parties and allows an officer to cite responsible hosts before a party becomes unruly. This ordinance also gives the police an additional tool to remind "hosts" of the ramifications of underage drinking at their party. Currently, officers can only address parties that are unruly or violate the City's noise ordinance.

The first national study of civil social host laws found that social host laws reduced binge drinking and drinking and driving among underage drinkers. As part of their report in 2003, the National Academy of Science Institute of Medicine recommended in part, that states "enact a comprehensive set of strategies including strengthening social host liability laws affecting persons under the age of 21."

Santa Barbara Youth Council

On November 5, 2007, the Santa Barbara Youth Council held a workshop on the Social Host Ordinance. It was the unanimous decision of the Youth Council to

endorse the City's consideration of the proposed Ordinance and join the ADAP Teen Coalition to recommend that this matter be submitted to the City's Ordinance Committee with the following recommendations:

- That youth are involved in the drafting and consideration of the ordinance and the educational component.
- That there is an educational component to the ordinance in lieu of paying the fine.
- That an awareness campaign is undertaken to educate the community about the new ordinance.
- That a portion of any paid fine goes to supporting teen prevention programs and services.

Proposed Draft Ordinance

In preparation for Ordinance Committee staff met to review sample ordinances from other communities and the priorities recommended by ADAP and the Youth Council listed above. Susan Young, Teen Programs Supervisor, and Roberta Payan, ADAP Coordinator, were present to insure the direction of the two youth groups was fully considered. Based on that discussion, the City Attorneys Office has drafted a preliminary version of what an ordinance might look like for Santa Barbara. Some key points include:

1. A person in control of private property where minors are consuming alcohol may be assessed a civil penalty for allowing their property to be used for such consumption. If the private property is rented, it is presumed that the renter, not the landlord, is responsible for the offense.
2. The first offense is a \$1000 civil penalty with an option to complete an alcohol education program in lieu of the penalty. A civil penalty of \$1000 for any subsequent citations.
 - Council on Alcoholism and Drug Abuse Teen Court has offered to operate such a program. An MOU with the City would need to be developed.
 - The Youth Council proposed a \$500 fine for a first offense, in consideration of offenders who might be more economically challenged. However, since they expressed a strong desire for people to complete the education course so they better understand youth/alcohol issues, staff believes that a stiffer penalty would act as more of a deterrent.
 - Staff discussed whether an escalating penalty above \$1000 could be set for repeat offenders.

3. A public education campaign will be undertaken to inform the public of the Ordinance. Examples of outreach campaigns from other communities are readily available, and the message would come from various community organizations, including the City, which are involved with youth and alcohol issues.
4. Concern has been expressed that a number of communities in the south coast have or are considering a Social Host Ordinance and that, as much as possible; the ordinances should be similar in their major components to avoid residences on opposite sides of the street being treated differently. The City Attorneys Office is reviewing ordinances already in place, and will consult with County of Santa Barbara as they are in the process of drafting a proposed ordinance as well.

Conclusion

In the state of California there are currently 40 city and county ordinances. The County of Santa Barbara is currently reviewing a proposed social host ordinance for the unincorporated areas of the County. To our knowledge, the County of Ventura is the only county in the United States to have all their jurisdictions covered by a social host law. The City of Carpinteria currently has a Social Host Ordinance which includes an educational component through the Council on Alcoholism and Drug Abuse Teen Court.

ATTACHMENT: Draft Social Host Ordinance

PREPARED BY: Susan Young, Recreation Supervisor

SUBMITTED BY: Nancy L. Rapp, Parks and Recreation Director
Stephen P. Wiley, City Attorney

APPROVED BY: City Administrator's Office

ORDINANCE COMMITTEE DISCUSSION DRAFT 6/17/08

ORDINANCE NO.

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA AMENDING TITLE NINE OF THE SANTA BARBARA MUNICIPAL CODE BY ADDING CHAPTER 9.70 CONCERNING PENALTIES FOR PROPERTY OWNERS OR SOCIAL HOSTS WHO ALLOW MINORS TO CONSUME ALCOHOL IN VIOLATION OF STATE LAW

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. Title 9 of the Santa Barbara Municipal Code is hereby amended by adding Chapter 9.70 which reads as follows:

9.70.010 Definitions.

The following words and phrases, whenever used in this chapter, shall have the meaning and be construed as defined in this section, unless it is apparent from the context that they have different meanings:

A. **PARTY, GATHERING, OR EVENT.** A group of two or more persons who have assembled or are assembling for a social occasion or a social activity.

B. **PERSON.** Includes, but is not limited to:

1. the person who owns, rents, leases, and/or otherwise has control or is in charge of the premises where the party, gathering, or event takes place, irrespective of whether such person knew of the event or knew or intended that alcohol beverages would be possessed or consumed by minors;

2. the person who organized the event; or

3. if the person responsible for the event is a juvenile, then the parents or guardians of that juvenile and the juvenile shall be considered "persons" and as such shall be jointly and severally liable for the civil penalties imposed pursuant to this chapter, irrespective of whether the parent(s) or guardians knew of the event or knew or intended that alcohol beverages would be possessed or consumed by minors.

C. **JUVENILE.** Any minor child under the age of 18 years.

D. **MINOR.** Any person under the age of 21 years.

9.70.020 Unlawful Gatherings On Private Property When Alcohol Is Served To Minors; Host Presumption; Declaration of Public Nuisance.

A. **Unlawful Gatherings.** No person shall permit, allow, or host a party, gathering, or event at his or her place of residence (or other private property under his or her control) where alcoholic beverages are in the possession of, or are being consumed by, any minor.

B. **Host Presumption.** It is presumed that the owner of the private property on which the party, gathering or event occurs is the person who permitted, allowed or hosted the party, gathering or event, unless the private property is rented, in which case it is presumed that the tenant permitted, allowed, or hosted the party, gathering, or event.

C. **Public Nuisance.** It is hereby declared to be a public nuisance for any person to permit, allow, or host a party, gathering, or event at his or her place of residence (or other private property under his or her control) where alcoholic beverages are in the possession of, or are being consumed by, any minor.

9.70.030 Civil Penalty.

A. Any person who permits, allows, or hosts a party, gathering, or event at his or her place of residence (or other private property under his or her control) where alcoholic beverages are in the possession of, or are being consumed by, any minor in violation of this chapter shall be liable and responsible for, and shall pay to the City, a civil penalty of \$1,000.00 for each violation of this Chapter. Such civil penalty shall be imposed and collected in the manner specified in Chapter 1.25 of this Code.

B. The civil penalty for a first time offender provided for in this Chapter may be waived upon submission of proof of completion, within sixty (60) days of receipt of notice of the violation, of a recognized counseling program, such as teen court or an alcohol rehabilitation or education program, as may be designated by the City Administrator of the City from time to time.

9.70.040 Remedies Cumulative; Actions; Relationship To Other Laws.

The remedy provided under this chapter is cumulative, and shall not restrict the City to any other remedy to which it is entitled under law or equity. Nothing in this chapter shall be deemed to preclude the imposition of any criminal penalty under state law. Nor shall anything in this chapter be deemed to conflict with any penalty or provision under state law, or to prohibit any conduct authorized by the state or federal constitution.